fore an interference with inter-State and foreign commerce. But a resort to those receipts was simply to ascertain the value of the business done by the corporation, and thus obtain a guide to a reasonable conclusion as to the amount of the excise tax which should be levied; and we are unable to perceive in that resort any interference with transportation, domestic or foreign, over the road of the railroad company, or any regulation of commerce which consists in such transportation. If the amount ascertained were specifically imposed as the tax, no objection to its validity would be pretended. And if the inquiry of the State as to the value of the privilege were limited to receipts of certain past years, instead of the year in which the tax is collected, it is conceded that the validity of the tax would not be affected; and if not, we do not see how a reference to the results of any other year could affect its character. There is no levy by the statute on the receipts themselves, either in form or fact. They constitute, as said above, simply the means of ascertaining the value of the privilege conferred." Four of the justices dissented, refusing to recognize this distinction.

Reward Offered by City — Personal Liability of Mayor. — *Tinken* v. *Talmadge*, 22 Atl. Rep. 996 (N. J.) A mayor offered a reward for the apprehension of a fugitive officer and in default of payment by the city action was brought to hold him personally responsible. The decision of this question involves the consideration of the general liability of public agents for acts apparently, but not literally, within the scope of their authority and a comparison with the well settled rules as to the responsibility of private agents. "There is a well defined distinction between the contracts entered into by private agents and those contracts made by public agents in respect to their personal responsibility. Where a private agent does not attempt to bind his principal, and in terms imposes the obligation upon himself, the rule is, that he incurs by such act a personal liability, although he describes himself as agent. * * * But this is not the rule where the obligation is the same, but the agent is acting within the scope of his authority as a public agent. * * * A public agent, whenever the contract is within the officer's power and duty, is not personally bound, unless a contrary intention is plainly indicated by the terms and circumstances of the transaction. The presumption is that he is acting in his official capacity, and that the engagement is meant to be with the public only." As it appeared, however, that his action was outside the scope of his authority to bind the city, the

presumption was rebutted, and it only remained to determine whether he could still be held. A private agent who has exceeded his authority, or who, having no responsible principal, has contracted in his character as agent, is personally responsible. There is a difference of opinion in different courts as to whether this rule applies to public agents. The New Jersey courts have formerly applied it to them, and it was held in this case that, as the mayor exceeded his authority in making the contract, he was personally liable for the consequences of its performances.

Action by Minor — Settlement by Next Friend.— Tripp v. *Gifford*, 29 N. E. Rep. 208. In this case the Supreme Court of Massachusetts has considered the question of the effect upon an infant of a compromise by next friend out of court. As to the general powers of the next friend it is held he is an officer of the court appointed specially for the protection of the infant's interests, and he is not for any purpose a party to the suit, (*R. R.* v. *Fitzpatrick*, 36 Md. 619); he cannot submit the case to arbitration, (*Tucker* v. *Dabbs*, 12 Heisk, 18); he cannot compromise the suit without express sanction of court, (*Crotty* v. *Eagle*, W. V., 13 S. E. Rep. 59; *Clark* v. *Crout*, S. Car., 13 S. E. Rep. 602); he may however assent to arrangements which will facilitate a determination of the cause, (*Kingsbury* v. *Buckner*, 134 U. S. 650); but the rights of the infant will be sedulously protected both by courts of law and of equity (*Denholm* v. *McKay*, 148 Mass. 434). In this case the father acting as next friend had settled the case out of court, but was afterwards removed by the court and upon subsequent trial the defendant offered evidence of the settlement in bar of the action. The evidence was excluded and this the Supreme Court sustains, holding that when a next friend "assumes to settle out of court and to finally discharge the cause of action, he clearly does more than is within his power" as an officer of the court appointed to prosecute the action. "He must act fairly and intelligently for the real interest of the infant" and though it may well be considered his duty to negotiate a fair adjustment without subjecting the plaintiff to the expense and risk of a trial, yet unless "such attempted settlement is affirmed either in terms or by an entry of judgment in regular course, it may well be held invalid" and the infant will not be precluded upon the trial.

Federal Jurisdiction — Municipal Powers and Rights.— In *New Orleans* v. *N. O. Water-Works Co. et al.*, 12 Sup. Ct. Rep. 142, decided in December, 1891, the important question of the jurisdiction of the Federal Courts over municipal corporations was